



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/519,008 03/03/00 MCAULAY

R 21920-708

021971 TM02/1002
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EXAMINER

MORSE, G

ART UNIT

PAPER NUMBER

2167

DATE MAILED:

10/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/519,008

Applicant(s)

McAulay et al.

Examiner

Greg Morse

Art Unit

2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5, 6 20) ☐ Other: _____

Art Unit: 2167

DETAILED ACTION

1. Applicant's claim to domestic priority based on 60/145607 is noted.
2. Claims 1-23 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371⁶ of this title before the invention thereof by the applicant for patent.

4. Claims 1-3, 6, 7, 11, 14, 15-18, 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kleiman, U.S. patent 5,959,945. Kleiman shows an entertainment unit (IT1) coupled to a LAN (R1) coupled to a WAN(G1). The nature of the units (a desktop-type computer) indicates that a graphic interface, a user input, and a pair of speakers will be present to play the music.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2167

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 11-12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable. The examiner takes official notice that :

IBM PC-compatible computers are widely known, and are widely known to be capable of playing downloaded music from the Internet through their associated speakers.

The use of both LAN's and WAN's to connect these machines to the Internet is widely known.

The use of IR controlled peripherals particularly keyboards and mice, is widely known.

The use of an entertainment unit (the PC) to provide the user with entertainment consisting of music through the LAN which is in turn connected to a WAN would have been obvious to one of ordinary skill in the art in order to take advantage of the basic capabilities of the PC. The use of infrared keyboards and mice on these keyboards would have been obvious to one of ordinary skill in the art in order to free the user from a desktop cluttered with wires.

An effective traverse of this official notice must include a statement that either (a) applicant believes that the noted facts were untrue as of 3/2/1999 (one year and one day before the filing date) or (b) applicant is unaware of the truth of these noted facts as of 3/2/1999.

Art Unit: 2167


7. Claims 1-3, 5-11, 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman as applied to claim 1 above, and further in view of Bernstein et al., U.S. patent 6,078,848. Kleiman shows a distribution system for music in Fig. 1 to PCS. Bernstein et al. teaches that it is desirable to place PCS in kiosks in public locations and provide card reader and biometric input to determine user identity for an account. The use of the kiosk of Bernstein et al. in the distribution scheme of Kleiman et al. Would have been obvious to one of ordinary skill in the art in order to provide the entertainment services of the jukebox scheme to the customers of Bernstein et al. Note the attract loop of Bernstein et al. at Col. 5 line 61.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Martin shows a relevant digital jukebox system. Castille and Anderson show relevant transmission systems for music.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Morse whose telephone number is (703) 308-4789.

MORSE/gam
October 1, 2001


GREGORY A. MORSE
PRIMARY EXAMINER